

## **EXHIBIT D**

ORIGINAL

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\* \* \* \* \*

Ronald Shamon and \*

Patricia Shamon \* Civil Action

v. \* No. 04-11674-WGY

United States of America \*

\* \* \* \* \*

Deposition of Marcos Dacunha Pedrosa, M.D.

Monday, March 14, 2005

Hanify & King, P.C.

One Beacon Street - 21st Floor

Boston, Massachusetts 02108

----- J. EDWARD VARALLO, RMR, CRR -----

COURT REPORTER

FARMER ARSENAULT BROCK LLC, BOSTON, MASS.

617.728.4404

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1 where I didn't have a chance to meet Mr. Shamon  
2 before the procedure. The consent form --

3 Q. Let me just hold you there. When you say  
4 you didn't have a chance, what do you mean by that?

5 A. Because I was probably doing something  
6 else. And again, having this team approach, the  
7 consent form may be obtained by the fellow who will  
8 actually be performing the -- You know,  
9 sigmoidoscopies are considered simpler procedures  
10 than the other ones that we actually perform. And  
11 because of that, the fellow may obtain the consent  
12 form on his own.

13 Q. Do you recall who actually obtained  
14 Mr. Shamon's consent in this case?

15 A. I do not recall who. I recall that I did  
16 not myself, that the fellow did.

17 Q. And the fellow was Dr. Zhang?

18 A. Yes.

19 Q. So Dr. Zhang is the one who obtained  
20 Mr. Shamon's consent in this case?

21 A. Correct.

22 Q. Did you participate in that process at  
23 all?

24 A. Of the consent form?

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1 Q. Correct.

2 A. No.

3 Q. Was it your practice at the time to  
4 participate in such discussions?

5 A. For screening flexible sigmoidoscopies,  
6 no.

7 Q. I know I cut you off, but tell me what you  
8 can recall about the procedure.

9 A. No, absolutely, absolutely. So what I  
10 recall -- And I should not be directing any words to  
11 Mr. Shamon. Is that correct?

12 Q. Correct.

13 A. Okay. What I recall is that right when  
14 the scope was inserted, there was -- The insertion  
15 of the endoscope, it follows usually a digital exam  
16 just to lubricate the anus and to give the patient a  
17 sensation actually what's going to happen next.  
18 Okay? When the the scope is inserted, I recall that  
19 he felt uncomfortable immediately.

20 Q. When you say he felt uncomfortable,  
21 specifically what do you mean?

22 A. He felt discomfort.

23 Q. Did he express that he was in pain?

24 A. I think he said something in the sense

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1 case?

2 A. The person who took the informed consent,  
3 it was Dr. Zhang. And as part of that, he would  
4 have conversed with the patient to identify if there  
5 was any intercurrent illness or any other problems  
6 that need to be advised about.

7 Q. Let me ask you this: Is a perforation of  
8 the lower rectum a known and recognized complication  
9 of a flexible sigmoidoscopy procedure?

10 A. A perforation of any part of the colon,  
11 and the rectum is part of the colon, it's a  
12 complication, a known complication for any lower  
13 endoscopic procedures. That involves the rectum,  
14 the sigmoid, the left colon, the transverse colon,  
15 the right colon and the cecum. Those are individual  
16 terms which are used for different parts of the  
17 colon. The rectum is part of the colon.

18 Q. Do you use the term colon and rectum  
19 interchangeably?

20 A. If I use -- ? Can you clarify that?  
21 I don't understand what your question is.

22 Q. Do you use the term colon and rectum  
23 interchangeably? Is the colon the same thing as the  
24 rectum?

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1 A. Rectum is part of the colon.

2 Q. Are they the same thing? When you use the  
3 term colon and rectum, are you referring to the same  
4 thing?

5 A. Colon is a more embrative term, including  
6 the rectum. So when we say perforation of the  
7 colon, that includes a perforation in the rectum.

8 Q. In your entire experience in performing  
9 flexible sigmoidoscopy procedures, in how many  
10 circumstances has a patient experienced a  
11 perforation of the rectum, the lower rectum?

12 A. In my experience? I have had very few  
13 complications, so --

14 Q. Well, why don't you tell me about any.  
15 How many perforations of the lower rectum have you  
16 seen in your experience during a flexible  
17 sigmoidoscopy procedure out of the thousands you  
18 have done?

19 A. Probably one.

20 Q. Are you talking about Mr. Shamon's?

21 A. No. He have not had a perforation.

22 Q. Oh, it is your testimony that he did not  
23 have a perforation of the rectum?

24 A. My recollection and my evaluation and the